

Seasonable Observations UPON THE BOOK INTITLED A System of the Law :

As it was contrived and published by the
late Committee appointed for Regulation.

So far as it relates to the high Court of *Chancery*, and the
proceedings thereof : Wherein several *Proposals* made
by the said Committee, are held unsafe and inconvenient ; some
are approved of ; and illustrated ; and others supplied,
wherein the same are conceived defective.

With *other Proposals*, for the better regulation of the said Court, and
more speedy and cheap hearing of Causes.

And an exact TABLE.

1. Concerning the *Fees* paid to the *Grand Officers* and *Parties*;
2. *How much will suffice the true Expenses*;
3. *It shall not be thought by great numbers in the said Court*.

None which is likewise assured, that memorable Case put for the said
King James, to the then learned Judges of the Lord, touching the Power and
Jurisdiction of the said Court, for relating *Commissions* upon *Judgments*
granted in the Courts of *Common Law* ; And how far the *Statutes of*
Præmunire do extend to restrain the said Court therein ; With the
Reasons and Reflections of the said Judges thereon.

Tended to the consideration of his Highness the
Lord-President, and his Council.

And published for the general good and information of all *Parties*,
Nobles and Subjects in the said Court.

By PHILOSTRATUS PHILODROMUS.

LONDON.

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Widdow's Table, 1674.



T O
The most Excellent, his Highness,
OLIVER CROMWELL;
Lord-Protector of the Common-
wealth of England, Scotland and Ireland,
and the Dominions thereto
belonging.

May it please your Highness,

THAT which the Ayre is in the Elementary world, the
Sun in the Celestial, the Soul is the intelligible
Law and Justice are the same in the Civill its
the Ayre which the oppressed with to breath in, the
Sun which dispelleth the Clouds, the Soul which
breatheth life to all, so the Execution of Laws and Administra-
tion of Justice, is the peoples peace, the distressed mans Pa-
tron, the high Protector of Lives, Liberties, and Estates, and
all that is dear and near unto man. The regulating the exor-
bitant Fees, impertinent Offices, and tedious proceedings in
Courts of Law and equity, hath been the earnest and frequent de-
sire of this Nation, as a means to satisfy the longing expectations
of the people, and procure a great measure of peace and quiet there-
by.

by. To which end the late Parliament have appointed select persons who have prepared several printed Proposals, Intituled, The System of the Law, which coming to the hands of several persons of approved knowledge and experience in the proceedings of the high Court of Chancery, after serious consideration had of so much of the said System as concern the said Court; It is humbly conceived, that as there be several good and wholsom Proposals therein offered, which are hereby approved of, and illustrated; so there are others not so safe and convenient to be established by Publike Authority, and other things omitted, which are conceived material to be added, amongst which is the small provision made for the Labourers therein, that it will not afford persons of value fit for Trust a reasonable subsistence, whereby the dignity of the Court will be eclipsed, and the people of the Nation injured by the undertakings of mean and ignorant Officers and Clerks: Wherefore the Author could do no less out of his affection to the publick welfare of the Nation, and the debt he owes to his native Country, as a member of this commonwealth, (laying hold on the just Liberty held forth to others the free people of this Nation in Cases of like nature,) then communicate the same to publike view, and especially to the consideration of your Highness, for a further course to be taken therein, as your Highness shall think fit, hoping that something may therein appear worthy of your Highness acceptance, for the better information of the Authority of the said Court, and proceedings thereof, and the means to regulate the same; which is so ancient, honourable, and so essentially good in it self, and so necessary for the well government of this Nation; that all the Changes of Governments since William the Conqueror's time, and long before, have never produced an alteration of the just Power and Jurisdiction of the said Court, but rather an enlargement thereof; the same being of such Antiquity, that its prescription is as

Ancient

*Ancient as the very Nation; which custom is of such high au-
 thority, that it cannot justly be altered or changed, but by an Act
 of a Free and Legal Parliament; being next unto it in power
 and preheminiency, and is called Officina justitiae & veritatis.
 Certain it is, that both the British and Saxon Kings had their
 Courts of Chancery, being the only Courts out of which all
 Original Writs, and Commissions (whereupon other Courts
 do ground their proceedings) are issued forth: Edward the Con-
 fessor, and Etheldred, who began his reign Anno 978. had
 their Chancellors; King Edgar, and Athelstain theirs: And
 for further authority, that there was a Court of Chancery be-
 yond the antiquity of those times, The Mirror; cap. 1. sect. 3.
 & cap. 5. sect. sixth, Le premier Constitutions ordenus per
 les viels roys, &c. ordein sur qui chescun eydel Chan-
 cery le Roy brief remedial a son plaint sans difficulty: Hereby it appears, that in the time of King Alfred, Grand-
 father to Athelstain, who reigned Anno 872. there was a
 Court of Chancery, out of which remedial Writs issued, which
 Court was not then newly created, but in esse long before. And
 though Polydor Virgil affirms this Court to come in with the
 Conquest, perperam erravit; vide Cook 4. par. Inst. de
 Jurisd. Cur. And this Court is of such use to the Common-
 wealth, for Discovery of Fraud, Circumvention, breach of
 Trust, for secreting and concealing of Estates, forging of
 Deeds, Evidences, and Writings, preservation of the Testi-
 mony of aged Witnesses, regulating and restraining the strict
 rigour of the Common Law (called summum jus, or jus sub-
 tile as some interpret it) and for supply of relief in a just and
 equitable way, wherein the Common Law is deficient; and
 for divers other good ends and publike advantages, &c. that the
 Common-wealth cannot well subsist without it, insomuch that
 not any of our neighbouring Nations are without this Court, being*

a continual curb and awe to the corrupt Consciences of men who otherwise cannot be restrained by any general Rules or Maxims of Law, which may prove short and defective to cure every disease, So that the care and wisdom of all former Ages have been such, that as much as in them lay, they left no means unattempted to provide redress and remedies for the people, suitable to the nature of their complaints. And as hard it was for Galen to prescribe Medicines to cure all sorts of diseases, as it is for any Governors or Magistrates to establish rules of Law for relief of all sorts of Cases. And therefore as God doth dispose his Government by Justice and Mercy, whereof notwithstanding Mercy hath the supreme place in the Lords Tabernacle, as that which was put above upon the Ark, wherein were the two Tables of stone, in which the Law was written: To which S. James alluding (James 2. 13.) saith, That Mercy triumpheth over Judgment: So the Princes and Governors of Nations, in imitation so that heavenly representation, have appointed two supreme States, The one of Justice, wherein nothing but the strict Letter of the Law is observed; The other of Equity, wherein the rigour of the Law is tempered with lenity, which is nothing else but Mercy qualifying the sharpness of Justice: Ipsæ enim leges cupiunt ut jure regantur, id est, ut illi facili ac benigna interpretatione temperentur: Equity doth diminish or add to the letter of the strictest Law, as times and necessities require, and is defined by Aristotle to be *Correctio legis generatim lata quia parte deficit*. Perizonius terms it *Correctio quædam legi adhibita quia ab ea abest aliquid propter generalem sine exceptione comprehensionem*. The sense of both interpretations being one and the same, that Equity is a Restriction of the rigour of the Law, and so useful in the well government of the Nation, that without our Courts of Equity, the Common Law may be termed Severity, and the strict rigour thereof totally destructive to the

the People's But since corruption hath crept into this Court, and the usual delay, together with the excessive Fees, blemish the privilege Infringe thereof, the Committee appointed by the late Parliament for regulating the Law, published a certain Book, intitled A System of the Law, which gave occasion to these few observations which we now humbly represents to your Highness: not in opposition to the proceedings of any entrusted therein, nor as a rule to frame and square their actions by, in regulating the said Court, but as a matter useful (as is humbly conceived) for avoiding the tediousness of proceedings: the impertinency of some Officers, and the exorbitancy of excessive Fees of that Court, which being regulated, it may be truly said of your Highness, that you have erected a Trophie to Justice, and established Righteousness in the Nation.

Acts of Justice and Piety will make you glorious in the memory of men, whiles others who prepare Altars and Tables to Fortune, (as saith the Prophet Isaiah) have built on the quicksands of imaginary greatness, which serve them for no other purpose, but to measure their own fall. God hath made you (the great Governor of this Nation) to read the Decrees of your good success written as it were with the rays of your own Justice and Piety: By how much the more you are affected to this, by so much the more the happy issue of your affairs shall crown your desires. You have seen your Battails end in Bays; and the thorns of your travails spring up to a peaceable and well framed Government, wherein God hath made you amongst men as a Mountain over Valleys. Be then a Mountain of perfumes, of which Solomon speaks in Cant. and not the Hill of Osee, full of snares and gins, rigorous, harsh, and strict in Government: Since God hath elevated you as a Cliff above the Sea, let your Laws be as Watch-Towers, not Rocks to shipwrack the people: and let them be as the Light to the blind, not Comets to pour down
Mali-



SECT. I.

BE it Enacted by the Authority of this present Parliament, That the Court of Chancery shall hear and determine all Causes of Equity in one certain Publick place and not elsewhere; And that there shall be in the said Court a Chief Clerk to be chosen from time to time by who shall from and make forth all after
 Process, and all Commissions and other thing issuing out of the said Court, and shall take the Returns, and file them, and also all Wills, Answers, Pleadings and Depositions in the said Court; and Enter and keep all the Records thereof, and matters filed as aforesaid there, and shall have such and so many under Clerks for writing and dispatching Business under him as shall be allowed and appointed by the Judges of the said Court from time to time, who shall administer an Oath both to the Chief Clerk and under Clerks to deal faithfully and uncorruptly in their Places, and out of the Fee payable to the Chief Clerk, shall appoint how much the under Clerks shall have for their pains, which Chief Clerk and under Clerks shall

constantly attend and execute their Places in person and not by Deputy, and upon the avoidance of the Chief Clerks place, the under Clerks shall from time to time succeed according to their Antiquity, if they be not found incapable of executing the said Office: And all the Records and Writters filed on Record in the said Court shall from and after

be in the custody of the Chief Clerk, who is thereby appointed to take the same into his Charge.

Observation 1.

THAT to confine the Court of Chancery to hear and Determine all Causes of Equity in one certain publique Place, and not elsewhere, may prove a great prejudice and inconvenience both to the Court and the People, for that it may so fall out by sickness, fire, war or other casualties, that it is impossible for the Lords Commissioners or others, appointed Judges there, to continue their sitting in the same place allotted for that purpose. And in such cases before they can sit in a more safe and convenient place, there must be an Act to authorize them by appointing that place which by the casualty aforesaid may be the occasion of several removals from place to place, and of several Acts for that purpose. In the Interval whereof there must certainly be a delay and stay of Justice as to the benefit of the Court held forth to the People of this Nation: And therefore it hath been the wisdom of former Ages (in reference to their place of sitting) to leave it to the discretion of the Lord Chancellor, Lord Keeper and Lords Commissioners for the time being, to appoint the most convenient places as occasion required for the better access of the People to make their Complaints and Addresses. It being humbly conceived that not the formality of the place, but its conveniency, nor the manner but the matter of Equity and Right there Administered ought to be first preferred, and chiefly endeavoured by all that are concerned therein. To appoint one chief Clerk for the performing of all the things contained in this Section relating to his place, being a Work formerly done by the six Clerks, and their under Clerks in Chancery, the Masters, Deputy and Clerks of the Sub-pœna Office and the Mr. Deputy, and Clerks

Clerks of the Affidavit Office, being in all above 150. persons, may prove a great inconveniency to the People of this Nation for these Reasons.

1. It being conceived impossible for one Clerk to discharge the same with that Care and Expedition as the nature of the place requireth; for that all the number of Bills, Answers, Replications, and other pleadings and proceedings, and other things formerly transacted by 6. coming to the hands of one, and the entry thereof being material in point of time, Those *delays* and *mistakes* incident thereto may prove a great prejudice to the People.

2. That by *mistakes, neglects, and other errors in the Filing and Entering of Pleadings, and other proceedings in the said Court, relating to the Practical part thereof*, there must consequently arise many *Differences* betwixt the Parties, Plaintiffs and Defendants, and the Clerks on both sides; and these *Differences* must necessarily be determined by that one *chief Clerk* mentioned in this Section.

And in such a Case, whether or no it is likely there will be so just, regular, and indifferent Report made of the matters to him referred (especially if the Errour relates to himself or his under Clerks by mis-entring or not entring, which frequently must fall out) as when there are 3. or more *superintendent Clerks* intrusted therein. And how is it possible for one Clerk personally to attend his Office and the Court, and File all Pleadings, take all Affidavits, and make all Sub-pœna's; and yet sit to hear and certify all matters to him referred, and to do all those things by himself personally without Deputy, with that care, expedition, uprightness and indifferency as the nature and duty of his place requireth, is left to the consideration of all rational men.

3. Whether such a trust vested in one person (be he never so able and honest) be not too great and large a power to the endangering of the Peoples Causes, and a snare laid for an honest man in consequence of time to act contrary to safe and wholesome principles; For the wisdom of all former Ages was such, that they thought not fit to make one person sole Judge of any one of the Courts of Westminster, to prevent corruption, partiality, or other indirect proceedings; for two is better then one, and

three may do more then both: And as there are three Lords Commissioners appointed Judges of the Court, why it may not prove more safe, expeditious and convenient to the People to have three persons to enter all pleadings and keep all Records, and to certify all proceedings of the Office, and make all reports and references; &c. is likewise left to consideration; it being far more easie and probable that one may be mistaken or corrupted then three. And the reducing of six to three will (as is conceived) much ease the People in point of Fees, and give them more satisfaction and assurance of a regular and just proceeding, then if reduced from six to one, as is proposed by this Section.

4. Whereas it is proposed by this Section, that the *chief Clerk* shall have such and so many *under Clerks* for writing and dispatching of Business under him as shall be allowed by the Judges of the Court, who are also to ascertain what they shall receive for their pains out of the Fees of the *chief Clerk*.

It is desired to be considered, whether this course doth not tend to the Ingrossing and Monopolizing the Profit and Fees received in the said Office into the hands of one, and to make him rich by impoverishing many; for certainly when the Proposers of this Act did direct, that the Fees of the *under Clerks* should be allowed by the Judges of the Court out of the Fees of the *chief Clerk*, they did forget that in their Table of Fees they took upon them to ascertain what the *under Clerk* shall have for his pains, and what the *chief Clerk* for his, which are so unproportionable and unsuitable to their respective places and employments, That the Labourer (*viz.* the *under Clerk*) who is worthy of his hire, shall not be able to live by his labour; and the *chief Clerk* (who takes the least pains and care) shall suck the fruits of other mens labours. And whereas formerly, above 100. Clerks daily laboured to maintain six (yet upon some more honourable considerable conditions then is proposed by the Table of Fees made by the Proposers) Now they must labour to maintain one upon such poor inferiour terms, that no Clerk of any parts or abilities to undertake Business will own such an unworthy beggerly employment; so that the *chief Clerk* must be contented with *Brewers Clerks*, *Kitchen Boys*, or some such persons to undertake the dispatch of the Peoples Business. And this one *chief Clerk* according

ing to the Table of Fees made by the Proposers will gain twice as much by his place as any one of the present six Clerks do, which can easily be made apparent by those that sufficiently know the nature and benefit of their employments.

SECT. II.

That there shall be such, and so many Attorneys of the said Court as the Judges thereof shall from time to time appoint, who shall take the like oath as Attorneys at the Common Law, and untill such appointment be made, the six Clerks and Clerks of the Pettibag, and the under Clerks to the Clerks in their Office, and to the Clerks in the Pettibag in their Office shall be Attorneys of the said Court.

Observation 2.

What the Proposers mean by Attorneys of the Court is not discovered by this Section: But I finde in the Table of Fees something allowed to them, being 10. s. and no more for what they are to do in a whole Cause; viz. 5. s. 4. d. for Filing a Bill, or entering an appearance 3. s. 4. d. at joyn- ing Issue and 3. s. 4. d. at hearing. It is humbly conceived, the Proposers did deal discreetly in not prescribing what they are to do for this 10. s. and also in leaving it to the Judges to appoint how many of them shall be allotted for this purpose; for it may so fall out that as the Proposers would have but one chief Clerk; so they will have but two Attorneys; and then an Attorneys place will be of more benefit then any one of the best Colonels pay in all the Army; But if they intend there shall be so many Attorneys in the Court as will discharge the Office and Duty of Attorneys, viz. To draw their Pleadings, Breviats, and other things needfull and fit to be pursued by Counsel, and to direct and advise them in all their proceedings. It is not likely that they will finde any Attorney qualified for that place, that will undertake that employment for ten shillings in a whole Cause.

And whereas it is proposed, That Clerks and Attorneys should take Oaths for the discharge of their respective places; It is much

admired that in those times wherein so many of the *Honest Conscientious People of this Nation* have written and declared against *Oaths ex Officio, as illegal, arbitrary and unwarrantable*, should go about now to impose the same anew. And it were well that no *Sheriffs* or other *Officers* were forced to take such *Oaths*, since few or none of them do or can perform the same according to the *Letter and purport* thereof, which may occasion a general inundation of *perjury*, with which the Land already mourns: *The many contradictory Oaths, and other unperformed Vows and Oaths which have been taken in this Nation since the beginning of these unhappy Wars* (yet so little observed) being one of the *grand sins of the Nation*; insomuch that we have great cause to fear that it will produce a more fearfull *National Judgement and Punishment* on this Land then hath hitherto befallen the *Inhabitants thereof*.

SECT. III.

That the process of Appearance in the said Court of Chancery shall be by Summons in this form and no otherwise.
The Keepers of the Liberties of England by Authority of Parliament to A. B. of C. in the County of D. We command you to satisfy A. D. of the Complaint in his Bill, a Copy whereof we send you, as within 15. days after notice thereof, to appear and answer the same: Given under the Great Seal of England the day of And the name of the party that made the same, and the true party that sued it forth, as the Attorneys name shall be written under.

Observation. 3.

Against this there is no Exception made by the Author, only he desires it may be considered whether the stile of the Writ be so proper to be now used as is proposed by this Section.

SECT.

SECT. IV.

That a Plaintiff may put the names of all Defendants in to one Writ of Summons, and that all other Process of the said Court shall be sealed open, and the returning the Summons where the Defendant is present, and leaving a fair Copy thereof with him or her, and a Copy of the Summons and Bill at his or her habitation with some person there (if any be to be found) or else at the door of the House, if no person be there to be found, shall be a good service on that Defendant: And the party serving the same shall endorse the Summons, with the time and manner of service, and make oath thereof before some Justice of Peace, or speaker of Chancery, and return it when it is sued; and the Bill shall be only filed at, or before the next turn of the Summons.

Observation 4.

To give way for Plaintiffs to put the names of all Defendants into one Writ, hath been formerly found inconvenient, because thereby *litigious persons*, and especially *Pamper's* would take opportunity to make a multitude of Defendants out of meer *malice* and *curiosity*, and rather to wrest *unjust Compositions* from them, than out of any *just cause* of suit, the same being too much practised in remote parts of this Nation, whereby many of the People to purchase their ease and quietness, and to avoid *needless trouble and charges* in answering *occasional troublesome persons*, will rather give them something, than to be exposed to a *needless Suit*; For prevention whereof, the Court formerly would not suffer above three to be inserted in one *Sub-pena*, so that very few unless they had some colourable cause of Suit would be at the charge of taking out of more *Sub-pena's* than they had just cause so to do; And when it falls out that Defendants cannot be personally served with Bills, or live very remote, in such a case, the Parties Plaintiff must be unavoidably exposed to take out several *Sub-pena's*, to be left at their dwelling Houses, which is accounted good service by this *System* of the

the *Proposers*. The sealing of all the *Process* of the Court open, was formerly certified by the *Clerks in Chancery* (in obedience to the orders of the former Committee for regulating the Law) as a very commendable course to avoid mistakes, and other inconveniences : But as to the leaving of the Copy of the Bill with the Defendant, or at his house in his absence at the time of service of the Sub-pœna, it may prove of little use, but rather an inconvenience and double charge ; for it may so fall out that the Plaintiff may on better advice, alter his Bill before he Files it ; and who can swear that he left a true Copy of the Plaintiffs Bill with the Defendant or at his house before such Bill be Filed on Record, and examined with the Record by the party that is to leave a Copy for the Defendant (without which no contempt can issue forth against him.) And as for those that serve Sub-pœna's and are employed in business of that nature, they are for the most part illiterate persons, and Affidavits of such service may occasion many perjuries, and great troubles, expences and debates thereabouts ; whereas if all Bills were first Filed in the office before a Sub-pœna granted (as hath been ingeniously proposed by the said Clerks, the same being agreeable to the ancient wholsom course of the Court) and the Defendant to make his address to the Office for a copy, under Teste, it is conceived to be a far more safe and regular course. And moreover in case a Copy of a Bill be left with the Defendant or at his house at service of a Sub-pœna before the Defendant will repair to Counsel to draw his Answer, he will in all likelihood examine it with the Record it self, and have it under Teste, all which doth but increase labour and expence, and loss of time ; for otherwise he doth but answer an uncertain matter, or an *individuum vagum* ; for it may so fall out that the Record and Copy left at Service may much differ, and one word or syllable doth cause a great alteration ; And if this course of delivering Copies of Bills, Answers and Pleadings be intended to save charges to both parties, a reasonable abatement of the present Fees would in all likelihood give the Client far more satisfaction then this new invented course, the consequence whereof may probably prove very fatal and prejudicial both to the Plaintiff and Defendant.

SECT.

set, and so to act as if not considered as such. And the
 set of land shall be as **SECTION V.** And so of all the same
 set of land and tenements as set of land

That from and after the establishing of Country Registers,
 any person that exhibits a Suit in equity for any Hom-
 age, Lands, Tenements and Hereditaments shall not have
 the benefit of any Decree to be made touching the same, as
 against any purchaser, or other claiming interest in, or profit out
 of the same for valuable consideration: But from the time of the
 entering of such his Claim, Suit, or Decree in the Registry
 where the same do lie.

And so of all the same set of land and tenements as set of land
 set of land and tenements as set of land and tenements as set of land
 set of land and tenements as set of land and tenements as set of land

To this the Author makes no exception, so the People be not
 debarr'd of the benefit of Suit already commenced, or to be
 commenced in this Court before the establishment of Country
 Registers; and touching precedent incumbrances.

SECTION VI. And so of all the same set of land and tenements as set of land
 set of land and tenements as set of land and tenements as set of land

That the Defendant being duly served, and not appearing
 shall forfeit 40 s. to the Plaintiff, and 20 s. to the Com-
 monwealt; and Writs shall be made forth directed to the
 Sherif, Coroner, or such other person as the Plaintiff shall
 name to attach the Defendant by Body, Lands, and Goods, to
 enforce him to appear, and answer returnable at such time as the
 Plaintiff shall desire; which Writs shall not be executed, or
 being executed shall be discharged if the Defendant pay the
 aforesaid forfeitures, and charges of the Writs; and with
 his hand on the backside of the said Writs, Declare that he
 will appear within the Return thereof, and within eight days
 after make his Defence, or otherwise make Oath before the
 Sherif, or Coroner, that he had no notice of the said Sum-
 mons, with such Declaration to appear and Answer, as aforesaid;
 and such Writs either executed, or thus endorsed, or to be
 executed, shall at the return day be returned to the
 Court, and be there filed: And in case the body cannot be
 attached

attached, and Issues be returned upon Lands or Goods, the same shall be to the value of four pence, which shall be soz, seized soz not appearing, one half to the Commonwealth, the other half to the Plaintiff.

Observation 6.

That the Course prescribed in this Section for an Attachment, Proclamation, Commission of Rebellion, and Sequestration to be contained in one Process upon a Contempt, is humbly conceived to be of dangerous consequence, and more mischievous to the Defendant than any prejudice could formerly accrew to the Plaintiff by the ordinary course of taking out of the usual Process of Court on *Non est inventus* returned: For that on a *false Affidavit* that the Defendants house was served, according to the Direction of this Section (which may by craft be done, and yet the Defendant never hear of it untill in contempt) The Defendant being a Merchant, or other person living much on his Trade or Credit, having occasion to travel beyond Sea, or unto some remote parts of the Nation, may have a Sequestration come upon his estate, and his credit and trade destroyed, and his goods wasted and mis-used before ever he shall hear it: Those that are conversant with the practice of the Court of *Chancery*, cannot but well remember, that it is frequent upon *false Affidavits*, or other indirect grounds, to issue contempts against many men, who upon due examination of the Business are often cleared: And it were a sad Case, that on a bare *Affidavit* or mistake, any of the People of this Nation, being in credit and repute, should have their Lands, Goods or Chattels attached or sequestred. And if the Course proposed by the said Clerks for an Attachment and Proclamation to be the first Process, contained in one Writ and Commission of Rebellion next, and then Sequestration, it were more safe for all parties Plaintiff and Defendant; and less dangerous mischief, and inconvenience would probably accrew to both by this course, then the way directed in this Section.

SECT.

SECT. VII.

That where the person of the Defendant shall not be attached on this process, and in custody, and the said process endorsed, as aforesaid; and the Defendant shall not appear on the return thereof, the like process shall be sent to all the Sheriffs and Coroners of England, and such others as the Plaintiff shall name; and the Defendant shall also stand disabled to prosecute any Suit in any Court (except in Causes where issue is joyned, and there only to Tryal) And the Court may also sequester the thing in demand by the Bill for the party not appearing untill appearance and answer, except it appear to the Court by oath, that at the service of the Summons the Defendant was not within the Commonwealth; in which case the Court may give such thing for appearance and Answer as shall be meet.

Observation 7.

This hath dependance on the last Section, which being held inconvenient, this consequently must follow as *impertinent* and *useless*, as to what is herein before excepted against, is humbly conceived.

SECT. VIII.

That where any Defendant hath declared under his hand, that he will appear as aforesaid, and appeareth not, and is in custody for not appearing, or having appeared, for not answering, or not answering sufficiently, the Court shall order him to answer, and the Bill to be taken as confessed: And if within eight days after notice of that Order, the Defendant shall not answer accordingly, the said Cause shall be put in the Book of Hearings; and such Verdict made thereupon; as if the Defendant had confessed the Equity in the Bill; and if at the said hearing it shall appear that the said Defendant ought to discover any thing for the Plaintiffs relief, the Court may

enforce the same by strict restraint of the said Defendant, and Fine to be imposed by the Court, one half thereof to the Commonwealth, the other to the Plaintiff.

Observation 8.

The Court hath already sufficiently provided, in matters of this Nature, who in case the Defendant refuseth to answer, will decree the Bill *pro Confesso*, so that this Proposal might have been spared.

SECT. IX.

That in case a Defendant doth appear, and doth not answer, *plead, answer, or demur* within eight days, he shall forfeit; 1. for the first eight days default, to be paid to the plaintiff, and 10. l. for every eight days default after; one half to the plaintiff, the other to the Commonwealth; And the plaintiff may nevertheless in such case take forth such process, as before, to attach the Defendant by Body, Land, and Goods; and in case, that his Body be attached, and if doth not appear, that he hath Land and Goods sufficient to answer the plaintiffs demands, his Body shall be kept in safe custody, until he hath paid the costs and forfeitures, and given good security to be taken in the name of the plaintiff, and approved by the Sheriff, or such party as doth Attach himself, appear at the Return of the process and answer, and not depart without leave of the Court.

Observation 9.

By the former course of the Court, every defendant was to *plead, answer, or demur* within eight days after appearance, unless the Court upon special cause appearing by Affidavit that the defendant without sight of Writing or Conference with the rest of the defendants, or by reason of sickness, or remoteness of his dwelling, or some other extraordinary reason given to the Court, who in such Cases will grant the defendant a *Dedimus*, or give a further convenient time, for him to answer according to their

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their discretions, in which cases there is no provision made in this Section, but extraordinary rigour in point of time: so that this general Rule cannot be admitted in all Cases without much prejudice to many defendants.

SECT. X.

That any Justice of the Peace, as well as Master of the Chancery in ordinary, may take an Answer upon oath, sworn to by the Defendants bound by writ, and shall deliver the same printed, or transcribed the same shall be filed into the chief Clerk, and upon such delivery made by transmitting with an oath, that it was not altered, and it shall be the same shall be received and filed by the chief Clerk, and if it had been sworn in Court or returned by Commission and a Justice of Peace may also take an Affidavit, so as he put his hand and seal thereto, and make the place of his habitation; and the same may be made use of, in any Court, as if the same had been sworn in any Court before a Judge of the same Court, but no rasure nor interlineations to be in any Affidavit what soever.

Observation 10.

To this the Author makes no exception, only desires that there may be special care taken in Commissionating faithfull and honest able Justices of the Peace, in whom the Propositors by this System do repose in many things as much power as is now intrusted in the Reverend Judges of the Law.

SECT. XI.

That where the Plaintiff or Defendant do cause any Plea, Answer, Demurrers, Replications or Replies to be filed by the chief Clerk, they shall give to the adverse party or leave into his Attorney (or him) a true Copy of the same, which he shall have without Fee.

Observation

Observation II.

The same Objection that was made Section fourth, touching Copies of Bills may serve for this.

SECT. XII.

That where any defendant appears upon the return of Summons or process, if the Bill be not filed, he shall have his full costs to be taken by the chief Clerk, without further allowance, than the next day after the return day; and not to appear again upon writ of the same party before the costs paid, and upon new Summons.

Observation 12.

The *Proposals of the Clerks*, mentioned in Section fourth, That all Bills be first filed, (wherein the plaintiff prays process) before the same be granted, will (as is conceived) prevent all preferring of costs, and all those *delays, unnecessary expenses, costs and trouble* that formerly happened thereby, both to the plaintiff and defendants.

SECT. XIII.

That where any Defendant pleads or demurs, if it be in Term time, the same shall be determined within fourteen days after it be put in; if in Vacation, either before or in the first week of the Term: To which end the Judges of the Court shall appoint certain times for the determining the same, not interrupting the course of hearing other causes, and shall upon the first hearing of a plea or demur give their positive Order therein, without a second hearing: And where any plea or demurrer is over-ruled, the Defendant shall pay 40*s.* to the Commonwealth for a fine, before the plaintiff's costs.

Observation

To limit a time for arguing of all *pleas* and *demurrers* (as is conceived) tends to the forestalling the *Judgement*, *Justice* and *Discretion* of the *Courts* whose practice hath been hitherto to dispatch them all in order with as much expedition as they could; but in case there be so many entered in the Books and Papers of *pleas* and *demurrers* that in ordinary courses, according to their dates and entries, they cannot be heard within the 14 days; to binde the *Lords Commissioners* or *Judges of the Court* to hear and dispatch them within that time is conceived to be too unreasonable an obligation which (in all probability) no *Judges* or *Lords Commissioners* will undertake to perform; And in case it fall out that a *plea* or *demurrer* come to be argued in the absence of the *plaintiff* or *defendants*, and by reason thereof be ordered to stand or be over-ruled, if the party absent shew good cause why he could not attend the arguing of such *plea* or *demurrer*, upon payment of double costs of the Court, if it go against him, the Court would not deny the re-arguing thereof, which was never yet held unreasonable by any practitioner of the Court, or other unbiassed person: it seeming unjust and unreasonable, that in case either party be surprized or prejudiced by non-attendance, in such cases that on payment of double costs he should not be heard therein.

SECT. XIV.

That when a sufficient Answer is put in, the plaintiff shall reply within eight days, and if it be insufficient, shall within eight days put in exceptions thereto, or enter it in the Registers Books for hearing upon the Answer; otherwise the cause to be dismissed without any motion, and the chief Clerk to lay full costs within the time aforesaid, and no diminution free to be paid by the defendant in this cause or any other: But if the plaintiff shall in such case pay full costs and charges, he may exhibit a new Bill.

Observation

This is sufficiently provided for by the general and special Rules of Court made by the present *Lords Commissioners for the great Seal of England*, to the satisfaction of all Suitors.

SECT. XV.

That References to particular Masters of Chancery be for-
biden, and there shall be from henceforth but six Masters
of Chancery in ordinary, to be named by the Parliament, and
eligible at the end of every three years, and to be by the
year two or three to be referred
shall sit day by day at some certain public place, so long as
any thing depends in reference before them, and shall have a
Register in which they shall enter all matters in which they sit at
the last shall hear and report things under their hands which
come before them, always ending one cause before they begin
another.

Observation 35.

This course, if settled, would in all likelihood prove of very
great use and benefit to the People, and prevent delays and cor-
ruptions by references to particular Masters; only this is desired
to be added, that there be some extraordinary punishment im-
posed as well on Masters of Chancery as on all other persons that
are *Judges*, who shall directly or indirectly take any bribe, gra-
tuity or reward in any Cause, but barely their *Stipends* allowed
by the *State*.

SECT. XVI.

That for the better keeping of causes and motions in Court,
and references before Masters of Chancery, the Register
shall keep two distinct Books; in one of which, any party who
brings a cause ready for hearing, shall enter the same in either
of

of them any person who hath a reference to the Masters of the Chancery shall enter the same in the Register likewise in the Margin, figuring the Books by numbers, according to the time of the entry, and the party entering every such cause or reference subscribing his name. And there shall not hereafter be any Motions in Court for reference of insufficient answers to Bills or Interrogatories, or touching contempt, or scandal, or impertinence, in Bills or Answers. But any party desiring a reference in any such cause may enter the same in the said Books of reference to be heard before the Masters.

Observation for

This Court of entering causes and references, is conceived of good use and benefit to the People: The present Lords Commissioners having in a good measure made provision therein: But it is likewise humbly proposed that all motions in Court be likewise entred with the Registers, and the cause and end of the motion briefly inserted; And that the same may be heard in course; which will be a means to hear and determine Causes and Motions with equal dispatch; whereas now eminent Lawyers and Favourites are called by their names to move, who make sometimes three or four motions in a day, and sometimes more; whereas other Councillors of good parts and abilities are forced to attend a week or more before they can be heard, the Clyent in the mean time suffering in his Cause, and the Councillor (though in no fault) suffering in his reputation. And that for prevention of mistakes in the drawing of Orders, contrary to the meaning and Declaration of the Court, it is humbly proposed, that the Register do take the Order of the Court Verbatim, and read it openly, that Councell on both sides may except against and settle the same in Court, according to the Direction and Declaration of the Court; and that the Register, on a good penalty, presume not to draw any Order otherwise, or add to, or diminish from his Notes without consent of parties on both sides: The Register (as the case now stands) being in a capacity

to do great harm and prejudice to the people of this Nation
if inclined to the Cause of either party, Plaintiff or De-
fendant.

SECT. XVII.

That if the Judges or Master of Chancery shall hear any
Cause, motion or reference in any other order than as they
are set down in the said Registers Books, they shall forfeit 10*l*.
one half to the Commonwealth, the other half to the party
whose cause should be next heard in due course, and the Re-
gister to forfeit 5*l*. to be paid in the moieties as aforesaid, that
shall alter the number on the said Books, except it shall be by
consent of parties, or where neither party doth attend; And
then such cause to be put at the end of all the causes then entered
in the said Books respectively.

Observation 17.

Against this there is nothing excepted.

SECT. XVIII.

That upon a second instant answer, the party shall be
committed and kept within the prison until he make a suf-
ficient Answer.

Observation 18.

Against this Proposal, there is no exception made.

SECT. XIX.

That in case exceptions be taken to a Report, desiring the
opinion of the Court, the same shall be entered in the
Book of Opinions, and the party excepting, shall deposite 3*l*.
to the Register; and if the Court shall judge the exceptions
good, it shall be returned to him, and the adverse party
shall

shall pay him 4000 costs. But if his exceptions be adjudged
frivolous, the Commonwealth shall have 2000 of the 34. and
the adverse party the rest.

Observation 19. And yet charged upon

This course is already established by the orders of the Lord
Commissioners, saving the 2000. forfeiture to the Commonwealth,
which seems more reasonable (as well in this case as in other pla-
ces (where such forfeitures are mentioned)) to be paid to the par-
ties concerned and aggrieved: And besides the attending and
levying of those party forfeitures will bind the Commonwealth
in more charge then the same will amount unto, and some will
prosecute such forfeitures, since no particular benefit accrues to
the prosecutors thereby.

SECT. XX.

That after a Defendant hath once appeared, he shall perfect
his Answer, rejoin, and joyn in Commission, and attend
the hearing, upon notice to his Attorney, or known Solicitor
without any more process, and the Plaintiff to do the like af-
ter he hath replied.

Observation 20. And yet charged upon

To rejoin, and joyn in Commission on notice to the Clerk and
Solicitor is approved of, but not to proceed to hearing on such
notice, which may prove very prejudicial to the party, in whose
absence the cause may be heard for want of due notice given him
thereof; especially if the party be barred of a re-hearing, as is
unsafely proposed, *Cap. 27.*

SECT. XXI.

That in every case where Commissioners are prayed to
examine witnesses, duplicate Commissions shall issue at
the request of the Defendant, to be executed in such Counties
as either party shall think fit, which may be executed in any
place convenient within 20. miles from the date, and return
publication to pass at certain times, and either party may
be at liberty to enter the same into the Magisters Books at
hearing.

hearing: And if no Commission time, and witnesses be examined in Court, the cause shall be published within sixty days from the time of Replication; and then to be entered with the Register as formerly; but where Commissions are to be executed beyond the Sea, the chief Clerk shall set down a time for the return and publication, and either party may certificate at the hearing, that he could not produce his witnesses within sixty days to be examined; so that notice was given in writing to the other party, before publication of such witnesses names; and place of abode, and to what points they are to be examined at the hearing. And where the Court gives order to examine any parties witnesses, the same is to be done by virtue of that order, without any Commission, and the charges of Commission in such causes are to be spared.

Observation 21.

This is very well approved.

SECT. XXII.

That where Witnesses shall be examined for to prove a contempt, the party accused may likewise examine Witnesses to clear the same.

Observation 22.

This is already provided for in the Rules and Orders, established and published by the present Lords Commissioners of the Great Seal of England.

SECT. XXIII.

That Commissioners for Examination of Witnesses shall take an oath before execution of any Commission to execute the same faithfully and impartially, which each Commissioner is empowered to administer to the other; and the Clerk attending such Commissioners, shall take an oath (which is to

be administered by the Commissioners) to write down the Depositions of the Witnesses truly and indifferently without partiality, and every of the Witnesses shall be sworn and examined, and the depositions put in writing, and in presence of the Commissioner, and not elsewhere. ○ E 2

Observation 23.

This is an excellent course for the due and regular carrying of Commissions; there having been hitherto in many causes too much foul practise used in the taking of *Depositions*, wherein many Commissioners and Clerks on both sides, for the most part Act rather as Parties or Agents for the persons concerned, than as becometh *honest indifferent persons*, according to the trust reposed in them by the Court; so that through the indirect practise of cunning Clerks and Commissioners, meeting with persons of the other side not so skilfull, nor so ill disposed, many a good and honest cause is overthrown.

SECT. XXIV.

That after publication, either party may see the depositions of either side, and not be obliged to take Copies of any more then he shall conceive material, so as he take not the part of a Deposition to one Interrogatorie: And Plaintiffs and Defendants may (if they agree) take but one Copy of all, or any part of the Depositions, and make use of the same,

Observation 24.

This *seeming benefit* may prove more prejudicial to the parties concerned, then the charge of full Copies may amount unto; for how can Counsel be instructed in the *merits of the Cause* without sight and perusal of Copies of all the *Depositions* of both sides; and how can an *ignorant Countrey man* judge what part of the *Depositions* are usefull for him, and what not, wherein some persons (taking upon them more knowledge then probably they may have) out of a desire to save an inconsider-

able charge) may destroy a good Cause; but if they will wilfully hazard their Causes, it is fit they should abide the ill consequence thereof.

SECT. XXV.

That no Stay shall be of any proceedings at the Common Law upon a Bill of Exchange between Merchants, nor of Execution upon a Judgement at Law upon Bill extant after the said Judgement without desistance in writing of such Judgement, till the final hearing of the cause.

Observation 25.

This seems very just and equitable.

SECT. XXVI.

That no Stay of any proceeding at Law shall be, but upon equity contested in the further Matters who is stayed, or where the party stayed is in contempt for not answering, or not sufficiently answering to some material charge; in such cases the Stay to be hold upon charging the contempt, or sufficiently answering, without any further order.

Observation 26.

This is already provided for, according as is proposed by the present Rules of the Court, so that this Section was needless.

SECT. XXVII.

That where any cause comes to hearing, the Judges shall determine the time without delay, as second hearing; but if both parties consent, the cause may be put the last in the High Court at hearing, where the parties consent to a reference, the Court may order it.

Prohibet,

Prohibited, that no Judge before full hearing, doth make either party to consent in either of the Cases; And where any reference shall be made by consent of parties, they shall not have power so to countermand it; and an Award or Arbitrament made thereupon shall be full as if the reference was by order of Court, and shall be a sufficient ground for a Decree: And the Judges shall sit constantly, as well Vacation as Term, untill the causes and motions in the Registers Book be heard and determined; And they shall in all causes pronounce either decree presently in Court at the hearing, sitting in case of very great difficulty; and then not to proceed above ten days, and not to hear Counsel a second time in the said cause.

Observation 27.

To deny the parties to be reheard on payment of double costs, if it go against them, seems unreasonable on the grounds and reasons set forth, Section the 13. touching re-arguing of Pleas and Demurrers.

As for *References* and *Awards*, the Court were never against them; and if the parties on both sides agree, there is an end of that difference; In which case it is well known the Court neither will, nor can meddle with it; for if both parties agree, what need they trouble the Court, which is for no other use or end then to determine those controversies which cannot be composed in an amicable way by the parties themselves. But in case an *Award* be indirectly made by *practise* or *collusion*, in such cases the Court will relieve the party aggrieved, according to the truth and merits of his Cause, which hath been held a commendable and just course. And as to that part of this *Section*, which relates to *restraining the Judges of the Court from hearing of Counsel the second time*, this seems unreasonable if parties do desire it, and the Court see cause; and surely it cannot choose but give more satisfaction to the parties, and carry with it a greater countenance and power of *Justice* to hear Counsel, if the parties on both sides desire it, then to deny it to either; for it hath been hitherto conceived a just complaint of the People for injustice, in cases wherein they have been concluded, without permitting

mitting their Counsel to be heard, when they had something material to offer to the Court, especially in case of new matter not offered before: Whereas otherwise to hear both sides seems but just, whilst the Judgement is still reserved in the breast of the Court, who may order increase of Costs on re-hearing as they shall see cause.

SECT. XXVIII.

That the Register shall not execute his Office by Deputy, except in case of sickness, and then the Court to appoint one, and shall in his draught of orders mostly express the sense of the Court as Rules in the Court of Common Law, without any unnecessary preamble: And if the Register draw up an order contrary to, or not agreeing with the order pronounced in Court, he shall answer the party grieved thereby his full costs and damages to be given him by the Court, or to be recovered by Action on the Case at his Election.

Observation 28.

This method of drawing up Orders pithily, hath been formerly proposed by the Clerks; and if a Register draws an order contrary to the Declaration of the Court, it is but just that he should be lyable to an *Action of the Case*; but in case the course herein before proposed, Sect. 16 for publique reading of the Orders in Court be established, it will in all likelyhood prevent many miscarriages in drawing up of Orders, and will be a means to shorten causes, and avoid multiplicity of Orders, and spare the Client much expence.

SECT. XXIX.

That the Register shall upon every Decree pronounced in Court, enter the very words of the Decree in his Book, without interlineation, and publicly read the same in Court at that sitting of the Court so he there allowed: And that the Judges shall sign all Decrees publicly in Court at certain times

times to be for that purpose appointed, which Decrees are to be taken up forthwith, after the Decree pronounced; And that from and after

no Suit shall be admitted in any Court of Equity for the obtaining of any Decree for any Mannors, Lands, Tenements, and Hereditaments upon any pretence of trust or Agreement whatsoever, which shall not appear in Writing under the hand of the party, who ought to perform the same, or by some Deed or Will in writing.

Observation 29.

As to the first part hereof, which concerns the Register in relation to the *Decretal Orders* of the Court it is very well approved of: And it were well the same course were observed on all other Orders granted in Court, as hath been before proposed, *Sect. 16.* And for the time and manner of signing of Decrees and Dismisses, the Author makes no objection: but in the latter part, which relates to the barring of the Court from relieving any person for any Lands, Tenements or Hereditaments; upon any pretence of trust or agreement, which shall not appear in writing, &c. the Author makes no Objection against it, provided, that this extends not to *precedent trusts* before the establishing hereof by any Act; and before Country Registers be appointed where such trusts and agreements ought to be enrolled and entered; for the right truth is, if matters of trust and agreement, and other matters of Fact betwixt parties were reduced into writing, and enrolled, it would avoid many *litigious causeless suits*, and prove a speedy way of redress, and little occasion would be for the parties to make address to the *Chancery* in such cases, and a Law to binde the People to reduce their Acts, Deeds, Contracts and Agreements into writing enrolled, will work a great peace in the Land in reference to Law-suits, and would spare many thousand pounds a year to the people by prevention thereof, as is humbly conceived.

E

SECT.

SECT. XXX.

That in all Cases where a Plaintiff is dismissed the Defendant shall have full costs, and where the Plaintiff hath just cause of relief the Plaintiff shall have full Costs, saving in a case where he might have had the like benefit without Suit: and there he shall have no costs, but pay the adverse party full costs, and a Fine of 40.s. to the Commonwealth, save also where the Defendant by Answer submits to the Judgement of the Court, and claims nothing to his own use; in which case he shall neither pay Costs nor Fine, but the Plaintiff to pay him costs if the Court finds cause. And where the Plaintiff is relieved for part, and dismissed for part, either party to pay costs to the other: and if a Plaintiff be relieved against any one or more Defendants, and not against others, such others shall have their full costs: And whereas any is to pay costs, and is not able, such party shall be sent to the Work-house to work, during the pleasure of the Court; one half of the benefit of his work to go towards the payment of his Costs; or be imprisoned, or both, as the discretion of the Court; And no person is admitted to sue as a poor man, unless he bring a Certificate from some Justice of the Peace, Councello, or Sergeant at Law, or Judge of the County Judicature of his poverty, and the Justness of his Cause.

Observation 30.

All this *Session* seems very just and reasonable, and may prove of good use and benefit to the people of this Nation, if established by Authority.

SECT. XXXI.

That in all cases where a Plaintiff is dismissed, he shall pay a Fine to the Commonwealth of 20.s. and if the Plaintiff hath a decree against any Defendant, such Defendant shall pay alike Fine to the Commonwealth, where he paid costs to the adverse

adverse party: And a Defendant for every insufficient Answer (after the first) shall pay a like fine to the Commonwealth; and a Plaintiff a like fine for scilicet exceptions; and every person judged in contempt for that unnecessary trouble of the Masters of the Court by entering a reference before them in their Book, shall pay a like fine to the Commonwealth.

Observation 31.

As to the payment of 20*s*. Fine in this Section proposed to the Commonwealth, it should seem more reasonable that the same should be paid to the party aggrieved and concerned, which may be considerable in his purse, whereas if the same be cast into a publick Treasury, it will little add thereto.

SECT. XXXII.

That the shewing a Decretal or other Order of the Court under the Registers hand to the party, who is to observe the same, and leaving a Copy thereof with him, or leaving the same at his dwelling with some person there (if any be there to be found) or otherwise at the door of the house, shall be a sufficient service, and the party shall be in contempt, if he yields not obedience thereto within eight days; and thereupon process may and shall issue forth to attach his body; and if the order be to pay money, then also to levy the same of his goods and chattels, land and tenements, as upon a Judgement at the Common Law.

And the Sheriff and Coroner in execution of their Offices upon process forth of Chancery shall have the same power as in execution of process at Common Law, and leavey their own Fee beside the money for the party or Commonwealth, and behave themselves as in cases of other Execution; And all process of Summons under a penalty, and the course of Arresting by any other writ of Attachment then is by this Act appointed, Attachment with Proclamation, Commission of Rebellion, Messenger, or Sergeant at Arms (as to the Execution of

any process of the said Court) to be henceforth forborn, and Writs of Execution of Orders and Decrees under Seal to be no more used.

Observation 32.

The course prescribed, for service of Decretal Orders in this Section, seems to be inconvenient; for since the Proposers have directed that all the Process of Summons shall be under the Seal of the Court, which is the first, and least considerable of all the Process issuable out of the Court: why a Decree which is the last and most considerable of all Writs should not be under Seal, is left to consideration, it being easie to counterfeit a Registers hand, and if discovered, not so penal as the counterfeiting of the Great Seal of England, wherein pains of death are provided for the party offending; and therefore in respect of the difficulty of counterfeiting the great Seal, and the hazard and punishment attending the same, it is held and taken to be the most safe, convenient course which strikes a terrour in the persons concerned, and worketh a more honourable respect to the Decree and Authority of the Court that made it, then to a bare Registers hand, which may be had for twelve pence at any time.

And as to the Proposul which would make a decree in Chancery equivalent to a Judgement at Law, it was formerly proposed by the Clerk and cannot but be well approved of by all un-biassed persons, since Execution of the Law is the life of the Law; And the precedent reasons that are offered for the issuing forth of Decrees under Seal of this Court will satisfie all ingenious men for the issuing forth of all Writs of Executions of Orders under Seal of this Court.

SECT. XXXIII.

That whereas any man is attached for breach of a Decree, he shall not buy or sell at liberty, but by order of Court; And in all such process of Attachment, it shall be mentioned that it is for breach of a Decree.

Observation

Observation 33.

This is a very strict course (as is humbly conceived) and tends to the disabling the party against whom the decree is past to pay his Debts, or to make satisfaction to the party demandant: But to restrain him from disposing or selling of the matter decreed seems reasonable.

S E C T. XXXIV.

That there shall be no more money ordered to be paid into Court, unless by consent of both parties, and no fees shall be paid for paying out the money already in Court: And the party who thought to have damages for detaining any money which is brought into Court, shall have it during the time the money remains in Court to be paid, by such as were the cause for the bringing it into Court.

Observation 34.

To restrain the Court from ordering moneys to be paid into Court without relation to the nature of the Case, may prove a great prejudice to many persons; for in case there be one or more Suits depending for profits of Lands, or other things whereunto the *Plaintiffs* and *Defendants* make several claims, and the *Tenants* or others concerned, who derive an interest under the parties; *Plaintiffs* or *Defendants* have rents or moneys in their hands; but cannot with safety pay the same, untill the right be determined; it might prove a great inconveniency to the *Tenants* to pay their Rents to either parties before the Court on hearing of the Cause declare to whom the right appertaineth; the payment thereof in the interim, in dubious and intricate causes may occasion the parties to pay the same again, and so consequently multiply unnecessary suits, which the wisdom of former Ages hath prevented by paying the rents in the *Tenants* hands on good security given, to pay the same to whom the Court shall order, or else by ordering them to bring the rents, &c. into Court to be.

be disposed of as the Court shall direct on mature and deliberate consideration had of the merits of the Cause, whereby it may appear to whom the same belongs: And it seems unreasonable that no Fees should be paid for the paying out of the money already in Court, since the Officer that hath charge thereof hath been put to the trouble in receiving, and keeping the same, who is lyable to make satisfaction therein, if the same be imbecilled, and must be at the trouble and loss of times to pay the same out, and receive discharges for the same; for all which pains trouble and hazard, it seems reasonable that the Officer should receive satisfaction accordingly.

SECT. XXXV.

That where any party may take forth *Sub-pa-na's* of course to bring in a Doed, the Register shall grant an order of course under his hand, and like order where the Court both direct it: And the *Sub-pa-na's Ducens tecum* to be forborn. And the Register shall take for such order and entering it 12 d. and no more.

Observation 35.

This is already provided for by the late Rules made by the present Lords Commissioners more expeditious and at less charge then is proposed in this Section, viz. that the party may of course without order or motion take out a Writ of *Ducens tecum* to bring in any writings confessed in the Defendants Answer; but in case the party on his examination and consideration had to the rule set forth in his Answer do make good claim to the Writings, the Plaintiff in such case is to pay costs, which order is conceived to be a more wholsom and safe course then what is prescribed in this Section.

SECT. XXXVI.

That the time of redemption of Lands mortgaged before is at the passing of this Law, where no suit is depending for

for the same, shall not exceed two years from the passing this Act, and the time of redemption upon any mortgage after to be made, shall not exceed one year from the entry of the Mortgage after the condition broken, and from the time of entry within the year; and until redemption the Mortgagee shall receive double damages if it be redeemed, unless where an Infant is the Heir of a Mortgager, and to redeem shall have two years, and not abate from the time of the entry of the Mortgage after the condition broken, paying single damages: And that in all cases where the Mortgager dies, having an Heir within Age, and the Mortgagee redeemable, such Heir upon satisfaction of costs and damages may join with his Guardian to make reconveyance of the Land Mortgaged: And the same shall be good against such infant, and all claiming under him.

III. Observations 36. 37

The time limited for redemption of Lands mortgaged seems very short, and too strict, and tends to the forfeiting of many mens estates when Mortgagers cannot raise moneys within the time prescribed by this Section for Redemption; and in case money-mongers combine together, in such cases Mortgagers must either forfeit their lands at half the value, or else sell it at an extraordinary undervalue: And by this means no moneys can be raised by persons indebted, but on unconscionable, disadvantageous terms, which cannot but occasion a decay of Trade and Commerce in the Nation, and either disable Creditors to pay their Debts, or else expose them to ruine by forfeitures of their Estates at great undervalues: But on the other side it seems unreasonable that a Mortgager shall be subject to a Bill in equity for redemption after 20. or 31. years forfeiture, and sometimes longer; and after alienation of the estate, which occasioneth many unnecessary troublesome and chargeable suits, so that a reasonable certain time being limited beyond which there shall be no redemption seems just and convenient, which is left to the grave consideration of those who are to Enact the same.

SECT.

SECT. XXXVII.

That from the time of hearing of Suits now depending in Court of Equity upon Mortgage, there shall not be in any case above six moneths allowed for time of Redemption from the hearing of the Cause, and there shall be no stay of any legal proceedings upon any Mortgage unless equity be in the Defendants Answer, confessed or adjudged of the Court upon hearing of the Cause.

Observation 37.

This seems reasonable.

SECT. XXXVIII.

That a Mortgagee entering, and a Mortgagor redeeming Lands Mortgaged, the Mortgagee shall not be responsible for more then the profits he hath clearly made of the Lands while he had the same in Mortgage, deducting his necessary charges, which shall be determined by the Oath of the Mortgagor his Heirs and Assigns, and no other profits shall be required or admitted.

SECT. XXXIX.

That the form of the Oath shall be that neither the Mortgagee nor any other deriving title under him to his use hath made other, or more profits of the Lands then are given in upon such oath, as far as he knoweth, believes or can possibly discover; and that there hath not been any fraud, nor willfull neglect, so far as he knoweth or believes in the management thereof, whereby the profits were not made to his use of the Lands or Tenements Mortgaged.

Observation

Against which the Author offers this to consideration, that in case the *Mortgagee* will let the Lands to a friend of his at an extreme *undervalue*; this cannot be termed properly a *fraud*; for any man may let out his own Lands or what he is justly possessed of, and hath power to let and let at what *Rates* he pleaseth; but in case the *Mortgager* or any other for him, or any other person offer the *Mortgagee*, a far more considerable *rent*, and as good terms and securities as he was to have from another *Tenant*, who was to have it at an *undervalue*, this will render it a *fraud*; otherwise not; And as to the *Provision* made in this *Sedition* touching the *oath* to be taken by the *Mortgager*, the *Mortgagee* may greatly damnify the *Mortgager* in point of *Redemption*, and yet take the *Oath* herein before directed: And it were well if course were taken to avoid the taking of oaths (which are sacred) unless in cases of necessity. And therefore it is humbly proposed, whether it were not more convenient that the value of the Lands should be inserted in the deed of mortgage according to which the *Mortgagee* shall be lyable to an account at the time of redemption, who will be carefull in such a case in ascertaining such value, which may be moderated by agreement before the executing of such Deed at such Rates as the *Mortgagee* will be contented to take the same, and give account accordingly, which course will avoid future differences, and the hazard of unsafe oaths concerning the same.

SECT. XL.

That in any case where a Court of Equity relieveth against a penalty or forfeiture at common Law, the party relieved shall pay the adverse party double damages, unless in case of infancy, or where it shall appear by proof, that the fault was not by or through his carelessness and neglect: And the Surplusage of the Mortgage money upon an estate mortgaged in fee-simple, forfeited and redeemed, shall go to the heir, after the Mortgagee's debts paid, and his will performed if he make one;

one; if not, then the Surplusage of the money after payment of debts shall go to the younger childre or children of the poor, if no other is provided for.

And be it Enacted, that a Table of Fees shall be hung up in the Chancery for Causes in Equity, and no Sergeant or Counsellor at Law, Officer, Minister, or Clerk of the said Court, shall take any other Fee or Sum of money, for, or in respect of any cause there depending or copy of any Record or other thing there filed or Registered or put to the seal, upon pain to be punished as an Extortioner, any disabled to bear any office of trust or profit in the Commonwealth, unless the same shall be allowed by Parliament, which table of fees shall be as followeth.

Observation 40.

Unto this the Author makes no exception. Neither doth he except against the hanging up of *A Table of Fees*, nor the punishments provided herein against *Extortioners*, &c. the same being already provided for by the present rules of the Court and the Law of the Land in such cases.

But he desires those worthy persons before they establish a Table of Fees, to consider well of the consequence thereof.

To a Sergeant and Barrester at Law upon	l.	s.	d.
a Motion, Reference, giving advice, signing	1	0	0
Bills or Pleadings			

Observation 1.

Against this the Author makes no exception, but in case any Sergeant or Barrester, draw any Bills or Pleadings, that he may be paid *Quantum meruit*, or as much as the Client will be contented to give him; for that in such cases his pains may be great though his writing but small; and it seems reasonable, that whilst such an honourable degree of a Sergeant at Law is thought

thought worthy to be continued, there should be some respect had towards them in point of Fees, more then is allowed to ordinary Barellers.

II.

For a hearing of arguing a plea or demur—1 0 0

Observation 2.

Against this Fee the Author makes no Exception.

III.

To the Masters of the Chancery for examining every shitt of an exemplification of a Record

Observation 3.

This was the former Fee, and seems reasonable.

IV.

For taking the Acknowledgement of a deed or recognizance to be Curtilles.

Observation 4.

This seems reasonable.

V.

To the chief Clerk for writing the Summons and filing upon the return, besides the Seal

VI.

The like for Summons to testify.
For the Seal of that and every other Process to the use of the Commonwealth

This was formerly paid.

VII.

For administering an Oath

F 2

Observation

(36)

Observation 5. 6. 7.

All this is sufficient, being more in a year then the profits of two of the best six Clerks places will now amount unto.

VIII.

To the Attorney for the Plaintiff for filing the Bill the first Term } 0 3 4

IX.

The like to the Defendants Attorney for putting in the Answer } 0 3 4

X.

To the Attorney of either party for the Term, when issue is joyned } 0 3 4

XI.

To the Attorney of either party at the hearing } 0 3 4

Observation 8. 9. 10. 11.

This is a competent Fee, if the Attorney doth only file the Bill, and enter the appearance, &c. But it is desired to be considered, who shall do the rest of the work appertaining to the Cause, and what he shall have for his pains that is to do the same.

XII.

To the Examiner for Examination of every witness or upon contempt } 0 2 6

Observation 12.

This is also a competent Fee, and no more now paid.

XIII.

To the Clerk for writing and ingrossing Depositions upon a Commission for every 12. lines, containing 10. words in a line, three pence.

Observation

Observation 13.

This Clerk is no Officer of Court, and therefore, not so proper to be placed in a Table of Fees, the parties always paying him *Quantum meruit*, or as cheap as they can agree, who otherwise will not take that pains.

XIV.

To all the Officers of the Court respectively, where they are required to subscribe their names to any thing in Court ready written by way of Certificate &c. if it exceed not twelve lines with ten words in a line; if it exceed twelve lines, and under 24. eight pence, if above 24. twelve pence.

Observation 14.

This will occasion unnecessary time in reckoning lines, and it were better to ascertain a Fee for subscribing Certificates of what length soever they be, long and short all of a price.

XV.

For filing an Affidavit one penny, and for Copies for every twelve lines with ten words in a line two pence.

Observation 15.

This is a poor Fee, and not satisfactory for the work, if done and entered as the nature of it requireth, or as it is now exactly done by the present Register: And at this rate none will discharge the place that is a person of worth, credit or fidelity as it ought to be done; the present Register of Affidavits, being a person of known honesty and carefulness in his place, and gains but a reasonable livelihood thereby.

XVI.

To the Register for drawing and entering every Order, not exceeding twelve lines, with ten words in a line, twelve pence; and for every twelve lines above the first, seven pence; and for Copies of Orders for every twelve lines two pence.

Observation 16.

At this rate, none but Chandlers-boys, Kitchen-boys, and the like, will undertake the employment.

XVII.

For drawing Decrees and Dismissions to the Attorney, for the lines with ten words in a line 3. d. for Inrolment 2. d. and for exemplification 3. d. for every 12. lines with ten words in a line } 3

Observation 17.

This allowance will not recompence any one that will take the pains to do it; and therefore Clerks will rather turn Cobblers Apprentices then work at this mean rate, which cannot find them bread and salt.

XVIII.

For a search, or taxing any Order as He } 1 0
cometh in Chancery.

Observation 18.

This cannot be ascertained, unless by the terms as is already paid in all Courts, or else according to the nature of the search, which may sometimes take up four or five hours, or more: whereas every Coachmans wages is more considerable then what is proposed, in case of long searches which often fall out.

XIX.

To the Cryer and Door-keeper, to each of them at the final hearing of every cause from the party that hath a Decree, for whom Dismission is pronounced } 1 0

Observation 19.

The Proposers have forgot those other persons that attend the Court, and ought to have allowances accordingly, either by way of salary, or from the Clients.

XX.

For the Copy of any Record in Chancery, or other thing there filed, not before particularly excepted 2. d. for every 12. lines with ten words in a line, the party taking what party pleases } 2

Observation

Observation 20. No Officer or Clerk will attend this place at this rate, when as sometimes they make not any Copy of Record in three or four days, and the Copy may prove but short, and especially if the party may choose what part thereof he please (as indeed he might have formerly done before this Proposal) How this can recompence the pains and attendance of any honest, able, trusty man, and afford maintenance for himself and his family, is left to consideration; especially if they intend that the Plaintiff and Defendant are to deliver to each other Copies of all Bills, and other pleadings in the Cause, so that it is likely the Clerk will not have an occasion to make Copies of any pleadings in a whole Cause, unless the deposition, whereby he is tyed to continual attendance, but no work or wages provided for him by this System.

XXI.

For writing any thing to the Seal, not heretofore mentioned, for every 12. lines with ten words in a line } 0 0

Observation 21.

There is no Clerk of any parts or abilities will undertake this employment at this mean rate.

XXII.

And to the Commonwealth for the whole great Seal, the same Fees that have been accustomed }

Observation 22.

This was formerly paid.

XXIII.

For every Answer in writing on Petition— 0 1 6

Observation 23.

This is a sufficient Fee, and but reasonable.

Forasmuch

Forasmuch as some persons seem to be unsatisfied of the power and authority of the high Court of *Chancery*, to give relief to Complainants after Judgement given against them in the Courts of Common Law, which some have lately openly declared.

For publique satisfaction therein, I have thought it very usefull to recite the Case put by the late King *James*, concerning the power and jurisdiction of the said Court in matters of that nature, together with the Certificate, Reasons and Resolutions of the several Learned Judges thereupon.

IAMES by the grace of God, &c. Whereas our right trusty and wel-beloved Sir Francis Bacon Knight, our Counsellor and Attorney General, received a Letter from our Chancelor of England, dated 19. Martii 1615. written by our express Commandment, directing and requiring him, and the rest of our Learned Council to peruse such Presidents as should be produced unto them of the time of King H. the 7. and since of Complaints made in the Chancery there to be relieved, according to equity and conscience after Judgements in the Courts of Common Law in Cases where the Judges of the Common Law could not relieve them: And thereupon to certifie us of the truth of that they should finde, and of their opinions concerning the same; which Letter followeth in these words

Mr. Attorney, his Majestie being informed, that there be many Presidents in the Court of Chancery in the time of King H. the 7. and continually since, of such as complained there to be relieved according to equity and conscience after Judgements in the Courts of Common Law, in Cases where Judges of the Common Law could not relieve them (being bound by their Oath to observe the strict rules of the Law) is willing to understand whether there be such President as he is informed of; And therefore hath commanded me to let you know that his will and pleasure is, that you call to assist you his Majesties Bergeants and Solicitors; and to peruse such Presidents of this

this kinde as shall be produced unto you, and thereupon to certifye his Majesty of the truth of that you shall finde, and of your opinions concerning the same; And for your better direction therein I have sent you here inclosed a note in writing delivered to me, mentioning some such Presidents in King H. 7. time, and since; and I am told that there be the like in former times: his Majesty expecteth your proceedings in this with as much speed as conveniently you may: And so I rest

York house 19. *Martii*,

Your very assured loving friend,

1615.

T. Elmore, Chancellor.

And whereas our Attorney General, and the rest of our learned Councel did thereupon return unto us their Certificate subscribed withall their hands, according to our commandment and direction given them by the said Letter, which Certificate followeth in these words.

Certificate. According to your Majesties Commandment we have advised and considered of the Note delivered unto us of Presidents of complaining and proceeding in Chancery after Judgements had at Common Law, and have also seen and perused the Originals, out of which the same Note was abstracted, upon all which we do finde and observe the points following.

1. We finde that the same Note is fully verified and maintained by the Originals.

2. We finde that there hath been a strong currant and practise of proceedings in Chancery after Judgement, and many times after Execution, continued from the beginning of King H. 7. reign untill the time of the Lord Chancellor that now is, Both in the Reigns *separatim* of the severall Kings, and in the times of the severall Chancellors, whereof divers were great learned men in the Law, it being in cases where there is no remedy for the Subject by the strict course of the Common Law, unto which the Judges are sworn.

3. We finde that this proceeding in Chancery hath been after

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Judge-

Judgements in Actions of several natures, as well real as personal.

4. We finde it hath been after Judgements in your Majesties several Courts of Kings Bench, Common Pleas, Justice in Oyer, &c.

5. We finde it hath been after Judgements obtained on Verdicts and Demurrers, and where Writs of Error have been brought.

6. We finde in many of the Cases, that the said Judgements are expressly mentioned in the Bills in Chancery themselves to have been given, and relief craved thereupon sometimes for stay of Execution, and sometimes after Execution, of which kinde we finde a great number of King H. 7. time.

7. We finde the matter in Equity laid in such Bills in most of the Cases to have matter precedent before the Judgements, and no matter of agreement afterwards.

8. We finde in the said Cases, not only the Bill preferred, but motions, orders, injunctions and decrees thereupon for the releasing and discharging of the Judgements, or avoiding the possession thereupon obtained, and sometimes for the mean profits and release of Costs.

9. We finde in some of the Cases that in this very point (that Judgement hath been given) hath been stood upon by the Defendant, and alledged by them by way of Demurrer, and overruled.

10. We finde that the Judges themselves in their own Courts, when there appeared to them matter of Equity, because they by their Oath and Office cannot stay the Judgement, except it be for some small time, have directed the party to seek relief in Chancery.

11. We finde that this hath been done not only in times of the several Chancellors, but by the Judges themselves, and that without difficulty while they sate in the Chancery, in the vacancy or absence of the Chancellor.

12. We finde the hands of sundry principal Counsellors at Law, whereof divers of them are now Judges, and some of them in chief places, to Bills of that kinde.

13. Lastly, there were offered to have been shewed unto us many other Presidents, whereof we heard some read, and

and found them to be of like nature with those contained in the Note.

*Fran. Bacon, Hen. Mountague,
Ran. Crew, Hen. Yelverton,*

AND whereas also our said Attorney received another Letter from our said Chancellor, with a Case therein inclosed, written likewise by our especial Command, dated 27. *Martii* 1616. directing and requiring him, and the rest of our learned Council, together with the Attorney of our dear Son the Prince, to consult together upon the said Case, and to consider and decide of all the points thereof; and thereupon to peruse all the Statutes of *Parliament*, or the Provisions of all other Statutes as they should conceive to be necessary to be considered of for resolving the Question propounded in that Case: and thereupon to report to us their opinions in writing concerning the same, which Letter and Case therein inclosed, follow in these words.

Mr. Attorney, his Majesty hath perused this Case inclosed, and commanded me to send it to you: And his Majesties Will and pleasure is, that you Mr. Bergeant Mountague, Mr. Bergeant Crew, Mr. Solicitor, and Mr. Walter the Princes Attorney, that you confer together thereupon, and consider and deliberate of all the parts thereof, and thereupon to peruse all the Statutes of *Parliament*, or Provisions of all other such Statutes as you shall conceive to be necessary to be considered of, resolving the question propounded in this Case; this his Majesty would have to be done with mature deliberation; and yet with as much speed as convenient, by you can; and when you have sufficiently informed your selves therein, then to report unto him your opinions in writing; and so I commit you to God, and rest

York-house 27. *Martii*

Your loving Friend,

T. Elmore, Chancellor.

G 2

The

The Case.

A. hath Judgment and Execution in the Kings Bench, or Common Pleas against B. in an Action of debt of 1000.l. and in an Ejectione firm of the Mannour of D.B. complains in the Chancery to be relieved against these Judgements and Executions, according to conscience and equity, allowing the Judgments to be good and lawfull by the rigour and strict Rules of the Common Law; and the matter in conscience is such, as the Judges of the Common Law (being no Judges of equity) being bound by their oaths to do the Law, cannot give any remedy or relief for the same, either by error or attain, or by any other means.

Quest. Whether the Chancery may relieve B. in these or such like Cases, or else leave him utterly remediless and undone: And if the Chancery be restrained herein by any Statute of Premunire, &c. then by what Statute or by what words in any Statute is the Chancery so restrained, and conscience and equity banished concluded and damned?

Certificate. According to your Majesties commandment, we have deliberately advised of the Case sent to us by the Lord Chancellor, and of the Statutes, as well those of Premunire as others, as far as we take it may concern the Case.

And for our better information herein, We have thought fit to send for, and peruse the Original Records themselves, remaining in the Tower of London of those Statutes, not only appearing upon the Rolls of Parliament, with the Kings answers, which is the Warrant of the Roll of Parliaments.

We have also taken into consideration as well Book-Law as divers other Acts of Parliament which may give light unto the Statutes, wherupon the question properly doth grow, together with such ancient Records and Precedents as we could finde, as well which maintain the Authority of the Chancery, as those which seem to impeach the same.

Opinion. And upon the whole matter we are all of one opinion, that the Chancery may give relief in the Case in question. And that no Statute of Premunire, &c. or other Statute restraineth the same; And because we know not what use your Majesty may be pleased to make of our opinion, either for the time present, or for the future, we are willing to give some reasons for the

the same, not thinking fit to trouble your Majesty with all those things whereupon we have grounded our selves, but selected out some principal things, which moved us to be of this opinion to the end; the same may be a fuller object of your Majesties Princely Judgement, whereunto we always submit our selves.

Prescription.

And first of all, we must lay for a sure foundation that which was contained in our former Certificate, concerning the continual practise by the space now of 120. years in the time of King H.7. H.8. E.6. *Q.M. Q.E.* of this Authority, and that in those times when the same Authority was managed, not only by the Bishops which might be thought less affectionate towards the Laws of the Land, but also by divers great Lawyers which could not but both know and honour the Law, as the means of their advancement, Sir Tho. Moors, the Lord Audley, the Lord Rich, Sir ^{Richard} Bacon, Sir Tho. Bromley, and Sir John Pickering. And further, the most of the late Judges of the Kingdom, either as Judges when they sate in Chancery by Commission, or as Councillors at Law, when they set their hands to Bills, have by their Judgements and Council upheld the same Authority: And therefore, forasmuch as it is a true ground, that *optimus legum interpres consuetudo*, especially where the practise or custom passeth not amongst vulgar persons, but amongst the most high and most scient Magistrates of the Kingdom: and when also the practise of the same shall lie under so heavy a pain as the Premunire; this is unto us a principal and implicate satisfaction, that those Statutes ought not to be construed to extend to this Case: And this of it self (well known) as of far more force to move your Majesty then any opinion of ours, because Kings are fittest to inform Kings, and Judges to teach Judges.

Jurisdiction.

But further out of our Science and Profession, we have thought fit these further reasons and proofs, very briefly to offer, because in case of so ancient a possession of Jurisdiction, we hold it not fit to amplify.

Premunire.

The said statutes upon which this question grows, are principally one whereof is a Statute of *Premunire*, and the other is a Statute of simple prohibition.

That

That of the *Premunire* is the Statute of 27. E. 3. *Car. 1.*
 And the Statute of simple prohibitions 4. H. 4. *Car. 23.*
 there be divers other Statutes of both kinds, but the Question
 will rest on these two, as we conceive it, for that the Statute of
 27. E. 3. it cannot in our opinion extend unto the Chancery
 for these Reasons.

1. Out of the mischief which the Statute provides for and
 recites, *viz.* that such Suits and Pleas, against which the Statute is
 provided, were in prejudice and dishonour of the King, and his
 Crown, which cannot be applied to the Chancery; for the
 King cannot be dis-inherited of Jurisdiction, but either by
 the Forreigner, or by the Subject, but never by his own Court.

2. Out of the remedy which the Statute appoints, *viz.* that the
 offenders shall be warned within two moneths to be before the
 King and his Counsel, or in his Chancery, or before the Kings
 Justices of the one Bench or the other, &c. By which words it
 is opposed in it self, that the Chancery should give both the
 offence and the remedy.

3. Out of the penalty, which is not only severe but hostile,
 namely that the offenders shall be put out of the Kings protection,
 which penalty altogether favours of adhering to Forreign
 Jurisdictions, and would never have been inflicted upon excess
 only of Jurisdiction in any of the Kings Courts, as the Court
 of Chancery is.

4. Out of the Statutes precedent and subsequent of 25. E. 3.
Car. 1. and 16. R. 2. *Car. 5.* which are of the same nature, and
 cannot be applied but to forreign Courts; for the word *alibi*
 or elsewhere, is never used but where *Rome* is named, espe-
 cially before.

5. The dis-junctive in this Statute, which only gives the co-
 lour, *viz.* that they which draw out of the Realm in Plea
 whereof the cognizance pertaineth to the Kings Court; or
 of things whereof Judgements be given in the Kings Court, or
 which do sue in any other Court to defeat or impeach the Judge-
 ments given in the Kings Court. This last disjunctive (we say)
 which must go further then Courts out of the Realm which are
 fully provided for by the former branch, hath sufficient matter
 and effect to work upon in respect of such Courts, which
 though

though they were locally within the Realm, yet in Jurisdiction were subordinate to the Forreigner, such as were the Legats Courts and Deligates Court, and in general all the Ecclesiastical Courts within the Realm at that time, as it is expressly construed by the Judges in 5. E. 4. fo. 6.

6. In this the sight of the Record of the Petition doth clear the doubts where the Subject supplicates to the King to ordain remedy against those which pursue in other Courts then his own against Judgements given in his Court, which explains the word (other) to be other then the Kings Court.

7. With this agreeth notably the Book of Entry, which translates the word *in other Courts*, not in *alia Curia*, but *aliena Curia*.

This Statute of 27. of Ed. 3. being in corroboration of the Common Law (as it self recites) we do not finde in the Register any president of the Writs of (*ad iura Regia*) which are framed upon these Cases that were afterwards made penall by *Premunire*, but onely against the Ecclesiastical Courts.

Lastly, we have not found any president at all of any condition of the Statute of *Premunire* of this nature of Suits in Chancery, but only two or three Bills of Indictments preferred (*sed nihil inde venit*) for ought appears to us. For the Statute of Hen. 4. that no doubt was made against proceedings within the Realm, and not against Forraign, and therefore hath no penalty annexed; nevertheless we conceive that it extends not to the *Chancery* in the Case delivered for these Reasons.

1. The Statute recites where the parties are made to come upon grievous pain, sometimes before the King himself, sometimes before the Kings Council, and sometimes in Parliament to answer thereof anew, &c. where it appears that the *Chancery* is not named, which could not have been forgotten, but was left out upon great reason, because the *Chancery* is a Court of Ordinary Iustice for matter of Equity, and the Statute meant only to restrain extraordinary Commission, and such like proceedings.

This

2. This appears fully in viewing and comparing the two petitions which were made the same Parliament of 4. H. 4. placed immediately by the one before the other, the first of which was recited by the King, and the second whereupon the Statute was made, whereof the first was to restrain three ordinary proceedings of Iustice, that is to say in Chancery by name, in the Exchequer, and before the Kings Council by process of Privy Seal; unto which the King makes a Royal prudent answer in these words: The King will charge his Officers to be more sparing to send for his Subjects by such process then they have heretofore been: but notwithstanding, it is not his minde that the Officers shall so far abstain, but they may call his Subjects before them in matters and causes necessary, as it hath been done in the time of his good Progenitors; and then immediately followeth the Petition, whereupon this Act now in Question was made, unto which the King gave his assent, and wherein no mention is made at all of the Chancery or Exchequer.

3. If the Chancery should be understood to be within the Statute, yet the Statute extends not to this Case; for the words are that the Kings Subjects after Iudgements are drawn thereof anew, which must be understood when the same matter formerly judged is put in issue or question again; but when the case is called into Chancery, only upon point or equity there, as the point of equity was never in question in the Common Law, so the point of Law is of Fact (as it concerns the Law) is never in question in the Chancery, so the same thing is not twice in question, or answered anew; for the Chancery doth supply the Law, and not cross it.

4. It appears to our understanding by the clause of Error and Attaint in the same Statute, what Iurisdiction it was that the Statute meant to restrain, viz. such Iurisdiction as did assume to reverse and undo the Iudgement, as Error or Attaint doth, which the Chancery never doth, but leaves the Iudgement in peace, and only meddles with the corrupt conscience of the party; for if the Chancery doth assume to reverse the Iudgement in the point adjudged, it is void as appears 39. E. 3. fo. 14.

We

We finde no presidents of any proceedings to conviction or Judgement of any Indictment framed or grounded upon this Statute, no more then the Statute of *Præmunire*; and the late Judgements are *contra diversa Sana*, not mentioning the particular Statutes.

6. Lastly, it were a great mischief to force the Subject in all cases to seek remedy in equity, before he knows whether the Law will help him or no, which oftentimes he cannot do till after Judgement; therefore he is to seek his remedy when he hath his hurt.

There be divers other things of weight, which we have seen and considered of, whereupon we have grounded our opinions; but we go no further then upon that we have seen; but because matter of President is greatly considerable in this Case, and that we have been attended by the Clerks of the Chancery with the presidents of that Court, and have not yet been attended by any Officer of the Kings Bench with any Presidents or Indictments, although we required them, and gave them convenient time to have attended us with their Presidents, we shall give your Majestie faithfull Accompt of them as we have done of the other; all which, &c.

Francis Bacon,

Hen. Mountague.

Rand. Crewe.

Hen. Telverton.

John Walter.

H

Now

NOW forasmuch as Mercy and Justice be the true
 Supporters of our Royal Throne, and that it
 properly belongeth to Us in our Princely Office to
 take care, and provide that our Subjects have equal
 and indifferent Justice ministered to them, and that
 where their case deserveth to be relieved in course of
 Equity by Suit in our Court of Chancery, they should
 not be abandoned, and exposed to perish under the ri-
 gour and extremity of our Laws; We in our Prince-
 ly Judgement having well weighed, and with ma-
 ture deliberation considered of our said several Re-
 ports of our Learned Council, and all the parts of
 them, do prove, ratifie and confirm, as well the pra-
 ctise of our Court of Chancery, expressed in their
 first Certificate as their Opinions, for the Law upon
 the Statute mentioned in their latter Certificate, the
 same having relation to the Case sent them by our
 said Chancellor; And do will and command, that
 our Chancellor, or Keeper of our Great Seal for the
 time being, shall not hereafter desist to give unto our
 Subjects upon their several complaints, now or here-
 after to be made, such relief in enquiry, notwithstanding
 any former proceedings at the Common Law
 against them, which shall stand with the true merits
 and justice of their Cases, and with the former
 ancient and continued practises and presidency of the
 Chancery; And for that it appertaineth to our Prince-
 ly Care and Office only to be Judges over all Judges,
 and discern and determine such differences as shall, or
 may at any time arise between our several Courts
 touching their Jurisdictions, and the same to settle
 and

and decide, as we in our Princely wisdom shall finde to stand most with our honour, and the example of our Royal Progenitors in the best times, and the general Weal and Good of our People, for which we are to answer unto God, who hath placed us over them; our Will and Pleasure is, that our whole proceedings herein, by the Decrees formerly set down, be inrolled in our Court of Chancery, there to remain on Record, for the better extinguishing of the like Questions or differences that may arise in future times.

18. Julii 14. Jacobi Regis
per ipsum Regem.

H 2

Addi-

Additional Proposals, with a Table of Fees annexed for the better regulation of the Fees and proceedings of the High Court of Chancery.

1. **T**hat all Patents of Offices and places of Trust granted by the late King or his Predecessors be wholly laid aside; the Patentees being the men that swallow up the great Fees of the Court. 81

2. That no Offices or places of Trust, be bought or sold contrary to the Stat. of 5. Edw. the 6. but the same may be supplied by persons bred up in such Office, and so qualified for that purpose, and of approved integrity to the Commonwealth; and that some additional provision be made for the better prevention thereof.

3. That there be appointed three chief Officers in Chancery, for the orderly bundling, entring, and keeping of all Bills, Answers, Replications, Depositions, and others pleadings and proceedings there; which three Clerks shall from time to time, end and decide all controversies and differences betwixt the Clerks and Attorneys of the Court, in relation to the practical part thereof; or otherwise certify the Court in matter of fact, for further order therein as the Court shall think fit: Which chief Officers shall take care for the due observance of the Table of Fees: And that the Attorneys orderly demean themselves in their places and employments, without sinister or indirect dealing one with another, or with their Clients: And in case

case of abuses of that nature, they shall from time to time, certifie the Lords Commissioners or the Judges of the Court thereof, whereby the same may be timely redressed, and the said chief Clerks to have an Annual Stipend and allowance from the State for their service and attendance in the Execution of the Premises, and no other Fee to be paid unto them.

4. That from amongst the present practising Clerks, there be appointed 72 Persons, which shall be the Attorneys of the said Court, who shall file all Bills, enter all Appearances, copy all sorts of Pleadings, and make out all Subpenas or Process of Appearances, and shall make all other Writs formerly issuable out of the Six Clerks Office, and advise and direct their Clients in all proceedings, so far as appertaineth to the duty of an Attorney, who shall receive for their pains therein according to the Fees in the Table annexed mentioned. And upon the death or removal of the said chief Officers, or other contingent inability, the said Attorneys according to their Seniority and deserts to succeed them; and their Clerks in like manner to succeed as Attorneys, which will be a means to preserve Clerkship and persons of integrity in the said office to serve the Commonwealth.

5. That the Registers and Examiners, and other Officers of the Courts, shall execute their places personally, and not by Deputies, unless in cases of sicknesse or other extraordinary occasion, wherein the leave of the Court for his or their absence shall be obtained, and his Deputy approved of by the Court, and their Clerks to succeed them according to their Seniority and deserts.

6. That no person may be permitted to sollicite Causes, or to take any reward or Fees by pretence there-

of, other then such as shall be allowed and approved of by the Lords Commissioners, or Judges of the said Court, and their soliciting Fees may be ascertained, and their names invok'd, whereby the formal scandal and imputation occasioned by ignorant persons unwarrantably owning such employments may be prevented.

7. That such as shall be appointed Judges of the said Court, shall have a certain Annual salary, and they to take no Fees under any pretence whatsoever; For that the varietie and multiplicite of Suits, and long continuance and proceedings thereupon, may possibly have some influence in relation to the benefit of those that shall be appointed, if a certain salary be not provided, and the Judges restrained from taking any Fees.

8. That all sorts of Injunctions and other special Writs be signed onely by the Attorney and chief Officer, other signitures being meetly matters of formality, occasioning onely unnecessary delay and expence.

9. To avoid fraud, that there shall be no relief in equity for any Trust or Condition, other then what is expressed in the Deed which conveys the Interest, and that the Statute for transferring of uses into possession, may work as well for estates for years as freehold: And that whatsoever shall own a Trust or fraudulent conveyance to deceive a Creditor or Purchaser, shall on lawful conviction forfeit treble the value to the party aggrieved.

10. That if there be an Estate Morgaged for less then the value, the Creditors of the Morgagor may be admitted to repay the Morgagee his money and damages, and so have the Estate for satisfaction, provided they redeem it within the time of redemption allowed to the Morgagor.

11. Whereas

11. Whereas it is now provided for, that Injunctions be awarded of course for stay of all proceedings at Law for the matter complained of in Chancery, on a Dedimus Potestatem; It is likewise humbly proposed, That the like Injunctions be hereafter issued forth of course on an Attachment (being never denied on motion) until perfect answer made clearing contempts, and other Order to the contrary.

12. That whereas Plaintiffs and Defendants are exposed to many difficulties, apparent delays, and prejudices, and unnecessary wasteful expence, by reason of the Lawyers engaging their Attendance to several persons in several Courts at one and the self same time, to move and defend motions, viz. The Chancery, Exchequer, Upper-Bench, Common-Pleas, Guild-Hall, &c. it being impossible for one individual body to be at several places at one instant of time; So that oftentimes the Clients suffer in their absence, and are forced to retain divers Councillors to supply the absence of one another; Whereas one or two would suffice, who being thoroughly engaged in a cause could the better understand it, and would prove more useful then 20. that are now retained in a cause, which is frequent now adays for the reasons aforesaid; and perhaps not one of them doth fully know the merits of the cause, to the dishonour of their Calling, and the great damage of their Clients. It is therefore proposed, that all Councillors may be confined to practice at one certain Bar, and not elsewhere, as formerly.

The

The Six Clerks Office, worth 2000*l.*
per annum a piece, and upwards,
 demanded by vertue of a Pattent
 from the late King.

The Table.

	The Six Clerks Fees.	What will content the La- borer.	What will be saved to the Common- Wealth.
For all Copies of Bills, Answers, and other Pleadings, for every Lease (containing fifteen lines) <i>per fol.</i>	0 <i>l.</i> 0 <i>s.</i> 8 <i>d.</i>	0 <i>s.</i> 4 <i>d.</i>	0 <i>s.</i> 4 <i>d.</i>
For every Attachment with Proclamation and the Seal.	0 <i>l.</i> 2 <i>s.</i> 10 <i>d.</i>	1 <i>s.</i> 8 <i>d.</i>	1 <i>s.</i> 3 <i>d.</i>
For every Commission of Rebellion, besides the Hamper, Signiture, Entry, Inrollment and other Fees.	0 <i>l.</i> 8 <i>s.</i> 0 <i>d.</i>	8 <i>s.</i> 3 <i>d.</i>	6 <i>d.</i>
For every <i>Dedimus Potest.</i>	0 <i>l.</i> 7 <i>s.</i> 10 <i>d.</i>	4 <i>s.</i> 6 <i>d.</i>	4 <i>d.</i>
For every ingross'd Bill formerly there was paid to the Clerk 6 <i>s.</i> 4 <i>d.</i> <i>per fol.</i> being the main and only subsistence he had to live upon, which if taken away, as indeed it should, being needleless and chargeable, then no Clerk can subsist without a confirmation of this Table.	0 <i>l.</i> 0 <i>s.</i> 0 <i>d.</i>	0 <i>s.</i> 0 <i>d.</i>	This will save very much trouble, Labour, and need- less ex- pence.
For every Commission to examine Witnesses.	0 <i>l.</i> 7 <i>s.</i> 10 <i>d.</i>	4 <i>s.</i> 6 <i>d.</i>	4 <i>d.</i>
For every Writ of Execution of an Order of Court.	0 <i>l.</i> 7 <i>s.</i> 10 <i>d.</i>	4 <i>s.</i> 6 <i>d.</i>	4 <i>d.</i>
For drawing and inrolling every Decree, and every Dismission, formerly 1 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> but far better if 8 <i>s.</i> 4 <i>d.</i> <i>per fol.</i> drawing and inrolling, which is the most certain and indifferent way for the Clerk and Client, and not ingross'd as formerly.	1 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	8 <i>s.</i> 4 <i>d.</i> <i>per fol.</i>	This will save much and prove a certain- ty.
For every Writ of Execution of a Decree, <i>per skin</i>	1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	13 <i>s.</i> 4 <i>d.</i>	13 <i>s.</i> 4 <i>d.</i>
For every Exemplification of a Record, which comes but seldom, <i>per skin</i>	1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	13 <i>s.</i> 4 <i>d.</i>	13 <i>s.</i> 4 <i>d.</i>
For drawing and ingrossing every Injunction, besides Signiture, Inrolling and other Fees, which may be spared.	0 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	6 <i>s.</i> 6 <i>d.</i>	8 <i>d.</i>

For

	The Six Clerks Fees	What will content the Labourer.	What will be paid of the Common-Wealth.
For every <i>Superfideas, Certiorar. Proceud. Habeas Corpus</i> , and such other special Writs, which happen but seldom, besides Signature.	sol. 6. s. 8. 3s. 4d.	3s. 4d.	3s. 4d.
For the writing of every Patent, which is great confirmation, <i>Innotestimus, Executorie, Special License, Special Commission, Pardon. de infortuna. & Sa. defendendo, Duplicas. Constat.</i> or other special Grants and Patents, seldom used, <i>per skin</i>	1. 6. 8. 13.	4 13.	4.
For the filing of every Bill, every Appearance.	0. 3. 4.		
For every Certificate of any Proceedings of the Court.	0. 3. 4.		
Out of every Cause while it is Depending in Court (though nothing done by him for it) every Term.	0. 3. 4.		

The several Labours, Troubles and Expences of the Clerks in the Six-Clerks Office; for which (by the present Table of Fees, or from the Six-Clerks) they have no certain Fee or allowance at all; (though they were formerly rewarded by their Predecessors, with Chamber-rent and Diet.)

1. **T**he bespeaking of all *Subpoenas*, of what nature or quality so ever they be.
2. The Filing of all Bills, and Bundling of all Records, and entering of them.
3. The waiting on the Register, for drawing up Copies of Orders, and to assist the Client therein.
4. The attending upon the Masters, to see the Defendants sworn, and all other Oaths taken by them.
5. The answering and directing of all Clients, as to the merits of the Cause, and all other Proceedings.
6. The making of all Bills of Costs, and seeing them entered with the

Register,

Register, the Taxing them with the *Master*; and seeing them Entred in the House-book.

7. The entring of all Attachments in the House-book, the *Six Clerks*-book, and the Register.

8. The wayting on the Examiner to see and direct Witnesses to be regularly Examined, and to give notice to the Clients when Witnesses are Examined against them.

9. The Wayting and Attending on Council as occasion doth require, in the absence of the Solicitors.

10. The Attending the Hearing of the Clients Cause before the *Six Clerks*, the *Masters*, the *Master of the Rolls*, and at *Westminster*.

11. The drawing of all Decrees, Dismissions, special Commissions, Injunctions, and other special Writs; The greatest part of the Fees being taken by the *Six Clerks*, and the Clerks allowances taken away by the late Lord *Coventries* Table, which Table was procured by the *Six Clerks*.

12. The Examining of all Copies of Pleadings, Decrees, Dismissions, and all other special Writs, Inrollment of all Patents passing the Great Seal; Extrants and Inrollment of Decrees, Sheriffs Patents, their Oaths and Recognizances into *Wales*, and divers other places.

13. The finding out the *Six Clerks* with Paper, Ink, Parchment and Candle, in the dispatch of the Business of the Office; all except that worthy Gentleman Mr *Pinder*, where Paper and Ink is onely found by him.

14. Their daily attendance on the Court, and the business of the Office, neglecting of their Private occasions to serve the Publike.

15. The entring of all Rules in the House-book, *Six Clerks* book, and the Registers Office.

16. The keeping of Filing-books, Rule-books, and notes of *Subpoenas*, and making of *Excoquets* of Commissions of Rebellion.

17. The giving the Clients notice upon all Orders, Rules and other Proceedings in Court, and in the Office.

18. For joyning in Commissions, and Entering the same.

19. The laying out of moneys for the Clients in all Offices, and trusting them for repayment thereof, which of necessity they must do in their absence, in respect of their trust in them, as men from whom onely they expect an Account of their Business, and also for Letters to *Carrions*, and *Post*, and *Porters*, too and again, upon all occasions.

For all which labours, hazards and expences; and other service herein before proposed to be performed by the *Serjeants*; now called the *practising Clerks*

Clerks in the Six Clerks Office, it is conceived reasonable, that the Fee of 3^s. 4^d. on Filing a Bill, or entering the appearance, and the like Terms Fee formerly paid to the Six Clerks (who did little or no considerable service for the same) be hereafter paid to the Attorneys, now called practising Clerks.

The Fees of the Inrollment Office (where 1000^l. per. an. and upward) demanded by the Six Clerks, and three Masters of the Petti-bag, by colour of a Patent or Charter from the King.

	The old Fee	What will be saved to the L rd . Treasurer	What will be saved to the Common-wealth
For every Roll	— 01. 10s. 0d.	5s. 0d.	5s. 0d.
For every Recognizance.	— 0. 2. 0.	0. 1. 0.	0. 1. 0.
For every Exemplification, per skin.	— 1. 6. 8.	13. 4.	13. 4.
For every Scire Facias.	— 0. 5. 0.	0. 2. 0.	0. 3. 0.
For every Cancellation.	— 0. 3. 4.	0. 1. 0.	0. 2. 4.
For every Dedimus Potestas.	— 0. 10. 0.	0. 5. 0.	0. 5. 0.
For every Copy of Indenture or Recognizance, per sheet.	— 0. 8. 0.	4. 0.	4. 0.
For every search in old Books.	— 0. 1. 0.	0. 0.	0. 0.

Paid to the Mr. of the Rolls over and above the said Fees.

For every Deed, Recognizance, or other writ being Inrolled	— 0. 2. 0.	0. 1. 0.	0. 1. 0.
For every Exemplification.	— 0. 6. 8.	0. 3. 4.	0. 3. 4.
For every Cancellation.	— 0. 6. 8.	0. 3. 4.	0. 3. 4.
For Signing every Commission.	— 0. 1. 0.	0. 0. 0.	0. 0. 0.

If an Annual Stipend be allowed to the Master of the Rolls, suitable to the dignity of his place, as is generally proposed for all Judges, all these Fees may be spared.

The Examiners Office worth 2000 l. per annum a piece demanded by colour of a Patent from the late King.

The fees What will be saved.
Examiners, concurre.

For the Examination of every Examinant	0 l. 3 s. 6 d.	2 s. 6 d.	0 s. 0 d.
For Copies of all Depositions, Examinations and Interrogatories; for every sheet containing fifteen lines, i. e. per fol. which in one Cause hath come to 30. 40. l. and some more.	0 l. 1 s. 0 d.	0 s. 0 d.	4 s. 0 d.
For search and their finds to the Copies of any Examinations to be certified to another Court.	0 l. 6 s. 8 d.	1 s. 8 s. 0 d.	0 s. 0 d.
For the Exemplification of all Depositions and Examinations after the rate of every skin.	1 l. 6 s. 8 d.	13 s. 4 d.	13 s. 4 d.

The Subpoena Office, worth 3. or 4000 l. per annum.

The Fees What will be saved.
How paid, content the Labo.

For every Subpoena; Ad comparend. Solvend. Misf. rejuvengend. Audiend. Judic. 2 s. 6 d. if but one or two names, if three names 3 s.	0 l. 2 s. 6 d.	0 l. 1 s. 0 d.	0 l. 1 s. 6 d.
For every Subpoena of Ducens tecum, or grounded on any Order of Court.	0 l. 6 s. 8 d.	0 l. 2 s. 6 d.	0 l. 4 s. 2 d.
For every renewed Subpoena.	0 l. 1 s. 6 d.	0 l. 0 s. 6 d.	0 l. 1 s. 0 d.
If at the fault of the Clerk it is renewed 6 d. though in conscience nothing should be paid.	0 l. 0 s. 6 d.	0 l. 0 s. 0 d.	0 l. 0 s. 6 d.

This Office being a Monopoly, and very chargeable and unnecessary, is desired to be taken away, and the Attorneys, now called practising Clerks, may hereafter every one make Subpoenas for his own proper Clients, which if granted (as in reason it cannot be denied) will be of much advantage to the Common Wealth, who will be contented to make the same at the rates in the second Column prefixed, whereby much will be saved to the Clients.

The

The Registers Office worth 3000 l. per annum and upward, held by a Patent from the late King.

The
Registers
Fee.

What will
Office
him.

What will
be
the
same.

For taking of every Order in Court and drawing it up, for every side of a leaf loosely written, <i>long and short.</i>	ol. 35. od.	11. od.	23. od.
For entering every Order, for every side of a leaf of Paper.	0. 0. 6. 0.	3. 0.	3.
For Drawing of all Decretal Orders, Dismissions and Decretal Orders by consent after the rate of 6 s. a side, for an extraordinary Fee of the Decree.	0. 6. 0. 2.	0. 4. 0.	0.
For entering the same, for every side of a leaf.	0. 1. 0. 0.	0. 0.	0.
The entering of every Attachment, if it be thought needful to be entered.	0. 0. 2. 0.	2. 0.	0.
The entering of every Rule of Publication, Commissions, &c. if needful, for each of them.	0. 0. 4. 0.	2. 0.	2.
For carrying every Decree to the Lord Chancellor, Lord Keeper, or Court, to be Signed.	0. 5. 0. 2.	0. 5.	0.
For carrying every Dismission to be Signed.	0. 5. 0. 2.	0. 3.	0.
For all Certificates 12 d. besides the writing thereof 6 d.	0. 1. 6. 1.	0. 0.	6.
For entering all Pleas and Demurs in the Registers Book to be heard of course.	0. 1. 0. 0.	4. 0.	8.
For all Copies of Reports, Orders, &c. 6 d. every side, and 12 d. the Registers hand for the first side, and 6 d. the side, every side after.	0. 1. 6. 1.	0. 0.	6.

The Curfistors Office Annually worth 10000*l*. and upward.

FOr all Writs whatsoever of any debt or damages, there was formerly paid for a Fine, after the rate of 10*s*. in every hundred, &c.

This is a grievous and high oppression set on foot in times of Monopolies, and as burdensome and unnecessary as Damage done, and therefore proposed to be abolished, and the Curfistor content himself with 2*d*. 6*d*. for the same, and so for all other original Writs 2*s*. 0*d*. a piece, which is conceived to be reasonable.

For every *Procurator Rotemur* to leave a fine for, formerly, there was paid 2*l*. 4*s*. 4*d*.

Instead whereof it is proposed the Curfistor may content himself with 2*l*. 0*s*. 8*d*.

For all other Writs upon *Signs* on the rule, and other special Writs, there was formerly paid for some 2*s*. 6*d*. others 6*s*. 8*d*. and others more, according to the length and nature of the Writ: It is therefore proposed that the Fees of such Writs may be ascertained, and reduced to 3*s*. 4*d*. a piece, which is conceived to be sufficient.

That whereas there was formerly paid to the Master of the *Affidavit Office* for Filing every *Affidavit*, and for a copy thereof, and a band, 1*l*. 2*s*. 0*d*. never so long.

It is humbly conceived to be too much, and hereafter there be paid for filing every *Affidavit* 4*d*. and for a Copy thereof attested 4*d*. a side, each side, consisting of 12 lines, and 10 words in a line.

Whereas formerly there was paid for all Certificates 0*l*. 1*s*. 0*d*.

That hereafter there be paid for all such Certificates 0*l*. 0*s*. 6*d*. And this to extend only to such *Affidavits* as are needful to be Filed, to wit, such *Affidavits* whereon the Orders of the Court are grounded, and the charge of the others to be spared, unless the parties of the other side do require, or the Court do specially order the same to be filed.

FINIS.

439/90